UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,191	11/13/2001	Christoph Dobrusskin	PHN 16,257A	4074

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EXAMINER
HYLINSKI, STEVEN J

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *23 June 2008*.
2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *4-7,12 and 16-21* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *4-7, 12, 16-21* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   The alleged lack of a detailed rejection for claim 16 is clearly the result of a

typographical error. Applicant can locate all of claim 16's limitations under the heading

"Re Claim 6" on Page 4 of the Office Action mailed 04/04/2008. Examiner clearly mis-

keyed "claim 16" as "claim 6". All of the limitations of "receiving identity information from

the item at the host system, in response to proximity conditions between the host

system and the item, selecting an application program based on the identity information,

the application program including one of an information processing program and an

entertainment program, executing the application program at the host system, and

transmitting information from the application program to the item, for storage at the

item," are clearly addressed by the examiner as being anticipated by Harris on Page 4

of the 04/04/2008 action, under the "Re Claim 6" heading. The heading has been

corrected in this Office Action.

2.   Applicant alleges that Harris' running an application in response to "receiving the

application" is not identical to presenting a service field to a user in response to

receiving identity information. Applicant fails to acknowledge that Harris application

presents a service field to a user (see such as Fig. 20, this is clearly a service field), and

that this application is transmitted from one device to another, in a P2P setting, in

response to receiving identity information (Fig. 6, capabilities and needs are compared

in block **84** before two devices are allowed to setup a service connection in block **92.**

Fig. 10 continues from block 92, which shows that after the needs and capabilities of the

devices were compared, and a connection was established, the Control Appliance **102**

"uploads appliance control computer program to connected peer" **110** and then can

"execute computer program at connected peer" **112** in order to "control appliance" **116.**)

3.   Claim 6 is not detailed in the body of the Office Action mailed 04/04/2008.

However, claim 6 is listed in the statement of rejected claims. Furthermore, the Harris

reference provided at the time of the prior action did, at that point in time, include

enough information to anticipate all limitations of claim 6, as shown below. The detailed

rejection of claim 6 below illustrates what portions of Harris did anticipate the claim.

Therefore this Office Action can be made final.

4.   Applicant alleges that the rejection of claim 7 is "unfounded" under 102(e) or

103(a) criteria, and claims MPEP sections 2131 and 2142 as support. Applicant fails to

explain specifically how either of these MPEP sections would invalidate the examiner's

rejection. Examiner would like to point out that Harris specifically discloses providing an

iconized representation of an item at a host in response to the identity information (Fig.

20, PDA **300**, which is both a host and a client since it is used in a P2P network,

provides iconized representations of VCR's represented by icons **311**. In order to

provide icons of the VCR to the host, the PDA, the PDA must know what the identity of

the VCR is, since Harris' system can be used with many different types of devices. Col.

6 Lines 27-37 discloses, and Fig. 6 shows the P2P devices exchanging information

regarding their needs and capabilities "for forming a communication network". Fig. 21

shows addresses being exchanged between two items. Harris discloses in Col. 18 Lines

40-67 that "Controller **300** includes [...] display **309** showing icons **311** corresponding to

available commands. Cursor **312** indicates which of icons **311** is selected, with display

307 providing a textual description or identification." Although icons **311** represent VCR

tapes that can have actions performed on them from the PDA host, it is understood that

the icons could be representations of the features of any of the other devices that Harris

shows in Fig. 3 can be used in his invention. Harris thus anticipates claims 7 and 17 as

a 102(e) reference.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 4-7, 12, and 16-21 are rejected under 35 U.S.C. 102(e) as being

anticipated by US 6,331,972 to Harris et al. (Harris).

Re Claims 4 and 12,

Harris discloses a multimedia method for use with a screen-based host system

(Col. 6 Lines 11-54, Harris discloses a peer-to-peer system, which by definition means

that each node, which can be a PDA, cell phone, PC, etc, and hence-screen based,

functions as both a client and server or host at the same time, without the need for a

central server.) provided with information processing and I/O facilities (Fig. 2 shows

exemplary hardware included in a peer device, which includes processor **40** and

optional I/O devices **46**), and for interacting with an item, the method comprising:

receiving identity information from the item at the host (Fig. 6, block **82** shows that the

two peer to peer devices evaluate their needs vs. capabilities. Figs. 8 and 9 give

examples of needs and capabilities that each device can have, which include

information that identify the device.) in response to proximity conditions between the

host and the item (Col. 6 Lines 31-35), presenting to a user an associated service field

at the host in response to the identity information (Col. 12 Lines 62-67 and Col. 13 Lines

1-5, if the two devices are in range of each other and their capabilities and needs are

compatible, a program is transferred from one device to the other and a user interface is

automatically loaded to allow the user of one device to access the other device. Fig. 20

shows an example of a user's device **300** that has had a program loaded on it to control

another device. The graphical user interface shown on display **309** is clearly a service

field.), and transmitting information from the host to the item, for storage at the item

(Figs. 8-9 show examples of data items that one device needs to transfer from the other

device. Each device has memory **42** as shown in Fig. 2, which must at least temporarily

store data received from the other device).

Re Claim 5,

Harris discloses enabling the user to activate information processing operations

at the host related to the associated service field (Col. 13 Lines 1-8, the user at one

peer device can control the other peer device using the user interface that has been

loaded).

Re Claim 6,

Harris discloses transmitting host-generated results related to the associated

service field during such proximity conditions to the item (Fig. 20 shows the exemplary

embodiment of host **300** being able to send commands to one or more VCR's. These

commands, input by the user using the interface on the PDA, constitute host-generated

results.)

Re Claims 7 and 17,

In Col. 12 Lines 62-67 and Col. 13 Lines 1-5, Harris discloses that one of the

peer devices loads an application program from the other, and then presents the user's

device with a user interface based on the program. Harris shows providing an iconized

representation of an item at a host in response to the identity information in Fig. 20. In

this figure, PDA **300**, which is both a host and a client since it is used in a P2P network,

provides iconized representations of a VCR with host-commandable features of the

VCR represented by icons **311**. In order to provide icons of the VCR to the host, the

PDA, the PDA must know what the identity of the VCR is, since Harris' system can be

used with many different types of devices. Col. 6 Lines 27-37 discloses, and Fig. 6

shows the P2P devices exchanging information regarding their needs and capabilities

"for forming a communication network". Fig. 21 shows addresses being exchanged

between two items. Harris discloses in Col. 18 Lines 40-67 that "Controller **300** includes

[...] display **309** showing icons **311** corresponding to available commands. Cursor **312**

indicates which of icons **311** is selected, with display **307** providing a textual description

or identification." Although icons **311** represent VCR tapes that can have actions

performed on them from the PDA host, it is understood that the icons could be

representations of the features of any of the other devices that Harris shows in Fig. 3

can be used in his invention.

Re Claim 16,

Harris discloses a multimedia method for use with a screen-based host system

(Col. 6 Lines 11-54, Harris discloses a peer-to-peer system, which by definition means

that each node, which can be a PDA, cell phone, PC, etc, and hence-screen based,

functions as both a client and server or host at the same time, without the need for a

central server.) provided with information processing and I/O facilities (Fig. 2 shows

exemplary hardware included in a peer device, which includes processor **40** and

optional I/O devices **46**), and for interacting with an item, the method comprising:

receiving identity information from the item at the host (Fig. 6, block **82** shows that the

two peer to peer devices evaluate their needs vs. capabilities. Figs. 8 and 9 give

examples of needs and capabilities that each device can have, which include

information that identify the device.) in response to proximity conditions between the

host and the item (Col. 6 Lines 31-35), selecting an application program based on the

identity information, the application program including one of an information processing

program and an entertainment program (Col. 12 Lines 62-67 and Col. 13 Lines 1-5, if

the two devices are in range of each other and their capabilities and needs are

compatible, a program is transferred from one device to the other and a user interface is

automatically loaded to allow the user of one device to access the other device, hence

the program is an information processing program), executing the application program

at the host system, and transmitting information from the application program to the item, for storage at the item (Figs. 8-9 show examples of data items that one device needs to transfer from the other device. Each device has memory **42** as shown in Fig. 2, which must at least temporarily store data received from the other device).

Re Claim 18,

Harris discloses that the peer devices compare the needs of one device with the capabilities of the other (Fig. 6, blocks **82** and **84**). Figs 8-9 show that the needs of one device can be audio and/or video capability from the other device.

Re Claim 19,

Harris discloses that the peer devices compare the needs of one device with the capabilities of the other (Fig. 6, blocks **82** and **84**). Figs 8-9 show that the needs of one device can be audio and/or video capability from the other device.

Re Claim 20,

Figs. 8-9 show that one device can need personal information, such as the owner's name, security settings, or a financial transaction, from the other device.

Re Claim 21,

Harris discloses the information that is transmitted to the item including a state of the application program (Blocks **110** and **112** of Fig. 10 disclose uploading the application program to one of the peer devices, and then executing it once it has uploaded. The peer receiving the upload must inherently know whether the upload is completed and the program is ready to launch, which is a state of the application program.).

Conclusion

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to STEVEN J. HYLINSKI whose telephone number is

(571)270-1995. The examiner can normally be reached on M-Thurs. 7:00a-5:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Hotaling can be reached on 571-272-4437. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Primary Examiner, Art Unit 3714

/Steven J Hylinski/
Examiner, Art Unit 3714